

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 23, 2010

In the Matter of J. WILBURN, Minor.

No. 296991
Berrien Circuit Court
Family Division
LC No. 2009-000021-NA

Before: WILDER, P.J., and CAVANAGH and M. J. KELLY, JJ.

MEMORANDUM.

Respondent appeals as of right from the order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interests of the child. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); *Sours*, 459 Mich at 632-633.

There was clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(g). Respondent was not fully engaged in the reunification process from the beginning of the case. He was living with friends and relatives, unable to maintain stable housing. He also lacked income and tried unsuccessfully to claim social security disability several times. Respondent has significant physical health issues that inhibit his ability to care for a young child. He has not provided any support for his assertion that he would be able to successfully parent his child in a reasonable time.

Respondent contends that his due process rights were violated when the court terminated his parental rights. However, he has failed to show a due process violation. Although respondent does have a right to continued companionship and custody of his children, which is a protected liberty interest under the Due Process clause, *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003), there is also a substantial societal interest in the protection and welfare of children. Thus, respondent's right to parent is not absolute. Once clear and convincing evidence establishes a ground for termination of parental rights under MCL 712A.19b(3), the liberty interest of the parent no longer includes the right to custody and control of the children. *In re Trejo*, 462 Mich at 355, citing *In re LaFlure*, 48 Mich App 377, 387; 210 NW2d 482 (1973). In

this case, proof of parental unfitness was based on MCL 712A.19b(3)(g). Respondent failed to provide proper care and custody of the child, and there was no reasonable likelihood that he would be able to do so within a reasonable time. Respondent has serious health concerns, is without independent housing, and was unable to financially support the child. Thus, termination of respondent's parental rights did not violate his due process rights.

The trial court also did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5). It is in the minor child's best interests to be raised by someone who could provide him with a stable home and provide for his basic needs. As respondent admits, he has no income or home, has lacked both for some time, and has serious health concerns.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Mark J. Cavanagh
/s/ Michael J. Kelly